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HOUSE BILL 303

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Max Coll

AN ACT

RELATING TO HEALTH; CREATING THE DEPUTY SECRETARY FOR NUTRITION AND THE NUTRITION AND FOOD SAFETY DIVISION IN THE DEPARTMENT OF ENVIRONMENT; PROVIDING FOR THE INTERDICTION OF CERTAIN FOODS, FOOD ADDITIVES AND FOOD PROCESSES TO PROTECT FOOD CONSUMED BY NEW MEXICANS; ALLOWING THE LEGISLATURE TO DETERMINE THAT FOOD IS ADULTERATED OR MISBRANDED UNDER THE NEW MEXICO FOOD ACT, THE MEAT INSPECTION ACT, THE NEW MEXICO DAIRY PRODUCT ACT AND OTHER FOOD-RELATED ACTS BECAUSE OF CARCINOGENS, NEUROTOXINS AND OTHER DELETERIOUS COMPOUNDS; PROVIDING A HIGHER STANDARD FOR FOOD AND FOOD PROCESSES THAN THAT ALLOWED BY THE FEDERAL GOVERNMENT; CREATING A COUNCIL; PROVIDING DUTIES; CREATING A FUND; REQUIRING NUTRITION COURSES IN PUBLIC SCHOOLS; REQUIRING NUTRITION EDUCATION FOR PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS LICENSED IN NEW MEXICO; REQUIRING STUDIES; RECONCILING MULTIPLE AMENDMENTS TO SECTION 74-1-8 NMSA 1978

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1 (BEING LAWS 1971, CHAPTER 277, SECTION 11, AS AMENDED BY LAWS
2 2000, CHAPTER 86, SECTION 2 AND LAWS 2000, CHAPTER 96, SECTION
3 2); AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING
4 APPROPRIATIONS.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1
8 through 11 of this act may be cited as the "Nutrition Act".

9 Section 2. [NEW MATERIAL] FINDINGS AND PURPOSE. --

10 A. The legislature finds that federal authorities
11 through regulation and legislation have not intended to or
12 expressed an intention to occupy and preempt the matters
13 addressed in this act and, therefore, there remains authority
14 available to the legislature for regulation as it sees
15 necessary to protect and ensure public health and safety for
16 all New Mexicans.

17 B. The purpose of the Nutrition Act is to improve
18 the quality of food grown in, produced in or imported into New
19 Mexico or exported from New Mexico; to limit or label additives
20 to food that are carcinogenic, neurotoxic or otherwise
21 deleterious; to investigate and identify processes that when
22 applied to foods are harmful to human health; and to educate
23 New Mexico citizens in good nutritional choices.

24 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
25 Nutrition Act:

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- 1 A. "council" means the nutrition council;
- 2 B. "department" means the department of
- 3 environment;
- 4 C. "deputy secretary" means the deputy secretary
- 5 for nutrition in the department;
- 6 D. "division" means the nutrition and food safety
- 7 division of the department; and
- 8 E. "secretary" means the secretary of environment.

9 Section 4. [NEW MATERIAL] DEPUTY SECRETARY FOR
10 NUTRITION-- APPOINTMENT. -- The "deputy secretary for nutrition"
11 is created in the department. The deputy secretary shall be
12 appointed by the secretary, with the governor's approval, and
13 serve at the pleasure of the secretary.

14 Section 5. [NEW MATERIAL] DEPUTY SECRETARY FOR
15 NUTRITION-- DUTIES. --

16 A. The deputy secretary shall, at the direction of
17 the secretary:

18 (1) oversee department efforts on nutrition,
19 food safety and food service sanitation and coordinate related
20 efforts in other divisions and field offices of the department;

21 (2) serve as departmental liaison with other
22 state agencies, including the department of health, children,
23 youth and families department, public education department,
24 corrections department, New Mexico livestock board, New Mexico
25 department of agriculture and organic commodity commission, in

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1 the development and implementation of nutrition and food safety
2 programs and in the inspection duties of any agencies that
3 involve livestock, food and food production; and

4 (3) convene the council and seek its advice,
5 recommendations and assistance as he deems appropriate.

6 B. The deputy secretary shall recommend to the
7 secretary any list of foods, food additives or food processes
8 that the division and the council have determined should be
9 interdicted or required to be clearly labeled because of
10 carcinogens, neurotoxins or other deleterious compounds. If
11 the secretary agrees with the determination of the division and
12 council, the foods, food additives or food processes shall be
13 included in the nutrition and food safety standards.

14 Section 6. [NEW MATERIAL] NUTRITION AND FOOD SAFETY
15 DIVISION-- POWERS AND DUTIES. --

16 A. The "nutrition and food safety division" is
17 created in the department to:

18 (1) enforce the provisions of the Nutrition
19 Act, the New Mexico Food Act and other nutrition, food and food
20 safety acts for which it has been given responsibility; and

21 (2) develop and implement nutrition and food
22 safety programs to ensure the nutritional health of New
23 Mexico's citizens and the safety of their food.

24 B. The division shall:

25 (1) examine New Mexico's food and food supply

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1 to identify those foods, food additives and food processes that
2 should be interdicted or clearly labeled because of
3 carcinogens, neurotoxins or other deleterious compounds;

4 (2) in conjunction with the New Mexico
5 department of agriculture, examine pesticides, herbicides,
6 carcinogens and other deleterious and harmful substances and
7 toxic or potentially toxic compounds that should be banned from
8 or clearly identified in all food grown in, sold in or imported
9 into New Mexico;

10 (3) in coordination with the New Mexico
11 department of agriculture and the New Mexico livestock board,
12 inspect any food production facility, grocery store, dairy
13 establishment, feed lot or growing field to obtain samples for
14 testing;

15 (4) study ways to improve the operations of
16 state government relating to nutrition programs and the
17 provision of nutrition services to the citizens of the state;

18 (5) provide courses of instruction and
19 practical training for employees of the department and other
20 persons involved in the administration of nutrition programs
21 with the objective of improving the operations and efficiency
22 of the administration;

23 (6) develop nutrition education programs for
24 food stamp recipients;

25 (7) in consultation with experts and the

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1 affected state agencies, develop nutrition programs for
2 residents, patients or inmates of all state institutions and in
3 public schools, colleges and universities;

4 (8) in conjunction with the department of
5 health, develop public education programs and campaigns on
6 health, nutrition and ideal weight maintenance; and

7 (9) consult with the university of New Mexico
8 school of medicine to ensure that its nutrition curricula train
9 medical students in basic nutrition and how to prevent and
10 treat nutritional diseases.

11 Section 7. [NEW MATERIAL] NUTRITION AND FOOD SAFETY
12 STANDARDS. -- In carrying out the provisions of Section 6 of the
13 Nutrition Act, the department, in consultation with the
14 council, the environmental improvement board, the New Mexico
15 department of agriculture, the attorney general's office and
16 scientific experts, may by rule establish standards for
17 nutrition and food safety that are more stringent than those
18 established by the federal government pursuant to the Federal
19 Food, Drug and Cosmetic Act, the Federal Meat Inspection Act,
20 the federal Poultry Products Inspection Act or other federal
21 food and food safety acts. Nutrition and food safety standards
22 adopted and promulgated by the department pursuant to the
23 Nutrition Act shall be binding on all departments of state
24 government in the regulation of food and food safety.

25 Section 8. [NEW MATERIAL] NUTRITION INSPECTORS. -- The

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1 division shall employ "nutrition inspectors", who shall inspect
2 food production facilities, feed lots, growing fields and
3 wholesale and retail food facilities for compliance with the
4 Nutrition Act and rules promulgated in accordance with that
5 act. The division may contract with the scientific laboratory
6 of the department, a state university or private laboratory to
7 examine and conduct biochemical analyses of foods grown or sold
8 in New Mexico.

9 Section 9. [NEW MATERIAL] NUTRITION COUNCIL--CREATED--
10 MEMBERSHIP.--

11 A. The "nutrition council" is created, composed of
12 the following members:

13 (1) the assistant attorney general for
14 consumer protection;

15 (2) the deputy secretary;

16 (3) the secretary of public education or his
17 designee;

18 (4) the secretary of health or his designee;

19 and

20 (5) the following members appointed by the
21 governor, who serve at the pleasure of the governor:

22 (a) one pediatrician;

23 (b) one internist or family
24 practitioner;

25 (c) one cardiologist;

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- 1 (d) one toxicologist;
- 2 (e) one doctorate-level biochemist;
- 3 (f) one licensed nutritionist;
- 4 (g) one farmer;
- 5 (h) one rancher;
- 6 (i) one faculty member of the university
- 7 of New Mexico school of medicine;
- 8 (j) one dentist; and
- 9 (k) one public member who is appointed
- 10 on the basis of active involvement in the area of nutrition.

11 B. Members of the council who are not paid by
12 taxpayer funds may receive per diem and mileage expenses
13 pursuant to the Per Diem and Mileage Act, but shall receive no
14 other compensation, perquisite or allowance.

15 C. The council shall annually elect a chairman and
16 vice chairman. The council shall meet at the call of the
17 chairman, a majority of the members or the deputy secretary.
18 The division shall serve as staff to the council.

19 Section 10. [NEW MATERIAL] COUNCIL--DUTIES.--The council
20 shall:

21 A. review the decisions of the division on matters
22 of nutrition, including what constitutes "deleterious",
23 "carcinogenic" and "toxic or potentially toxic";

24 B. advise the division and the deputy secretary on
25 areas of concern such as:

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1 (1) the effect of food additives, specifically
2 carcinogens and neurotoxins, on pregnant women, neonates and
3 preschool-age children;

4 (2) the incidence of diabetes on Indian
5 pueblos and reservations;

6 (3) the effects of food-induced hyperactivity
7 and attention deficit disorders in children resulting from
8 their ingestion of monosodium glutamate and excitotoxins;

9 (4) obesity in all age groups; and

10 (5) other areas deemed important by the
11 secretary or the legislature for division or council focus;

12 C. make recommendations on the ways to improve
13 nutrition in New Mexico;

14 D. assist the division in developing and
15 disseminating educational materials on nutrition and on toxic
16 or potentially toxic additives to foods and processes that
17 result in food toxicity;

18 E. through the public education department, advise
19 public school districts on the development of nutrition courses
20 that are grade specific and that use texts in the field of
21 nutrition, preventive cardiology, preventive oncology and
22 preventive toxicology for New Mexico secondary school students;

23 F. develop a nutrition questionnaire to be sent to
24 every student in New Mexico that will be used by the division
25 to build a nutrition database; and

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1 G. investigate the quality of public school lunch
2 programs on a district-by-district basis and, upon a finding
3 that a program contains deleterious additives, shall recommend
4 to the school district and the secretary of public education
5 that the use of those additives be discontinued and the sources
6 of food for the school lunch program be improved.

7 Section 11. [NEW MATERIAL] FUND CREATED. -- The "nutrition
8 fund" is created in the state treasury. The fund shall consist
9 of appropriations, gifts, grants, donations, bequests and
10 settlements and awards from court cases filed in the name of
11 the state against food growers or processors. Money in the
12 fund shall not be transferred to any other fund at the end of a
13 fiscal year. Money in the fund is appropriated to the board of
14 regents of the university of New Mexico for the school of
15 medicine for nutrition and health-related research and
16 education. Expenditures shall be made on warrant of the
17 secretary of finance and administration on vouchers signed by
18 the deputy secretary or his designated representative. In
19 order to free the university from any influences by
20 corporations and their lobby groups, all gifts and
21 contributions to the fund shall be scrutinized by the council.

22 Section 12. A new section of the Public School Code is
23 enacted to read:

24 "[NEW MATERIAL] NUTRITION AND HEALTH COURSES. -- The
25 department shall adopt and promulgate minimum standards and

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1 benchmarks for grade-specific nutrition and health courses. "

2 Section 13. Section 22-13-1 NMSA 1978 (being Laws 2003,
3 Chapter 153, Section 57) is amended to read:

4 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
5 REQUIRED--ACCREDITATION. --

6 A. The [~~state board~~] department shall require
7 public schools to address [~~state board approved~~] department-
8 approved academic content and performance standards when
9 instructing in specific [~~state board required~~] department-
10 required subject areas as provided in this section. A public
11 school or school district failing to meet these minimum
12 requirements shall not be accredited by the [~~state board~~]
13 department.

14 B. All first, second and third grade classes shall
15 provide daily instruction in reading and language arts skills,
16 including phonemic awareness, phonics and comprehension, and
17 mathematics.

18 C. All first, second and third grade classes shall
19 provide instruction in art, music and a language other than
20 English.

21 D. In fourth through eighth grades, instruction
22 that meets academic content and performance standards shall be
23 provided in the following subject areas:

24 (1) reading and language arts skills, with an
25 emphasis on writing and editing for at least one year and an

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1 emphasis on grammar and writing for at least one year;

2 (2) mathematics;

3 (3) language other than English;

4 (4) communication skills;

5 (5) science;

6 (6) art;

7 (7) music;

8 (8) social studies;

9 (9) New Mexico history;

10 (10) United States history;

11 (11) geography; ~~and~~

12 (12) physical fitness; and

13 (13) nutrition and health.

14 E. In fourth through eighth grades, school
15 districts shall offer electives that contribute to academic
16 growth and skill development and provide career and technical
17 education. "

18 Section 14. Section 22-13-1.1 NMSA 1978 (being Laws 1986,
19 Chapter 33, Section 5) is amended to read:

20 "22-13-1.1. GRADUATION REQUIREMENTS. --

21 A. At the end of the eighth grade or during the
22 ninth grade, each student shall prepare an individual program
23 of study for grades nine through twelve. The program of study
24 shall be signed by a student's parent.

25 B. Successful completion of a minimum of ~~twenty-~~

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1 ~~three~~ twenty-four units aligned to the state academic content
2 and performance standards shall be required for graduation.

3 These units shall be as follows:

4 (1) four units in English, with major emphasis
5 on grammar and literature;

6 (2) three units in mathematics, at least one
7 of which is equivalent to the algebra 1 level or higher;

8 (3) two units in science, one of which shall
9 have a laboratory component; provided, however, that with
10 students entering the ninth grade beginning in the 2005-2006
11 school year, three units in science shall be required, one of
12 which shall have a laboratory component;

13 (4) three units in social science, which shall
14 include United States history and geography, world history and
15 geography, and government and economics;

16 (5) one unit in physical education or other
17 physical activity;

18 (6) one unit in communication skills or
19 business education, with a major emphasis on writing and
20 speaking and that may include a language other than English;

21 [~~and~~]

22 (7) one unit in nutrition and health; and

23 [~~(7) nine~~] (8) eight elective units and
24 [~~eight~~] seven elective units for students entering the ninth
25 grade in the 2005-2006 school year that meet [~~state board~~]

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1 department content and performance standards. Student service
2 learning shall be offered as an elective.

3 C. Final examinations shall be administered to all
4 students in all classes offered for credit.

5 D. A student shall not receive a high school
6 diploma who has not passed a state graduation examination in
7 the subject areas of reading, English, math, writing, science,
8 nutrition and health and social science. The state graduation
9 examination on social science shall include a section on the
10 constitution of the United States and the constitution of New
11 Mexico. If a student exits from the school system at the end
12 of grade twelve without having passed a state graduation
13 examination, he shall receive an appropriate state certificate
14 indicating the number of credits earned and the grade
15 completed. If within five years after a student exits from the
16 school system he takes and passes the state graduation
17 examination, he may receive a high school diploma.

18 E. The [~~state board~~] department may establish a
19 policy to provide for administrative interpretations to clarify
20 curricular and testing provisions of the Public School Code."

21 Section 15. Section 25-2-1 NMSA 1978 (being Laws 1951,
22 Chapter 169, Section 1) is amended to read:

23 "25-2-1. SHORT TITLE. -- [~~This Act~~] Chapter 25, Article 2
24 NMSA 1978 may be cited as the "New Mexico Food Act". "

25 Section 16. Section 25-2-2 NMSA 1978 (being Laws 1951,

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1 Chapter 169, Section 2, as amended) is amended to read:

2 "25-2-2. DEFINITIONS. -- For the purpose of the New Mexico
3 Food Act:

4 A. "board" means the [~~environmental improvement~~
5 ~~board~~] division;

6 B. "dairy establishment" means a milk processing or
7 milk producing facility;

8 C. "division" means the nutrition and food safety
9 division of the department of environment;

10 D. "director" means the [~~secretary of environment~~
11 ~~or his authorized representative~~] director of the division;

12 E. "person" includes an individual, partnership,
13 corporation and association;

14 F. "food" means:

15 (1) articles used for food or drink for ~~man~~ or
16 animals;

17 (2) chewing gum; and

18 (3) articles used for components of food or
19 drink or chewing gum for ~~man~~ or animals;

20 G. "label" means a display of written, printed or
21 graphic matter upon the immediate container of any article. A
22 requirement made by or under authority of the New Mexico Food
23 Act that any word, statement or other information appear on the
24 label shall not be considered to be complied with unless such
25 word, statement or other information also appears on the

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1 outside container or wrapper, if any, of the retail package of
2 such article or is easily legible through the outside container
3 or wrapper;

4 H. "immediate container" does not include package
5 liners;

6 I. "labeling" means all labels and other written,
7 printed or graphic matter:

8 (1) upon an article or any of its containers
9 or wrappers; or

10 (2) accompanying such article;

11 J. if an article is alleged to be misbranded
12 because the labeling is misleading or if an advertisement is
13 alleged to be false because it is misleading, then in
14 determining whether the labeling or advertisement is
15 misleading, there shall be taken into account, among other
16 things, not only representations made or suggested by
17 statement, word, design, device, sound or in any combination
18 thereof, but also the extent to which the labeling or
19 advertisement fails to reveal facts material in the light of
20 such representations or material with respect to consequences
21 [~~which~~] that may result from the use of the article to which
22 the labeling or advertisement relates under the conditions of
23 use prescribed in the labeling or advertisement [~~thereof~~] or
24 under such conditions of use as are customary or usual;

25 K. "advertisement" means all representations

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1 disseminated in any manner or by any means, other than by
2 labeling, for the purpose of inducing, or ~~which~~ that are
3 likely to induce, directly or indirectly, the purchase of food;

4 L. "contaminated with filth" applies to any food
5 not securely protected from dust, dirt and, so far as may be
6 necessary by all reasonable means, ~~from~~ all foreign or
7 injurious contaminations, or any food found to contain any
8 dust, dirt, foreign or injurious contamination or infestation;

9 M the provisions shall be considered to include
10 the manufacture, production, processing, packing, exposure,
11 offer, possession and holding of any such article and the
12 supplying or applying of any such articles in the conduct of
13 any food establishment; and

14 N. "federal act" means the Federal Food, Drug and
15 Cosmetic Act, ~~[21 USC § 301 et seq.]~~ the Federal Meat
16 Inspection Act ~~[21 USC § 601 et seq.]~~ and the federal Poultry
17 Products Inspection Act ~~[21 USC § 451 et seq.]~~."

18 Section 17. Section 25-2-9 NMSA 1978 (being Laws 1951,
19 Chapter 169, Section 9, as amended) is amended to read:

20 "25-2-9. PROMULGATION OF DEFINITIONS AND STANDARDS BY THE
21 ~~[BOARD]~~ DIVISION. --

22 A. Whenever in the judgment of the ~~[board]~~ division
23 such action will promote honesty and fair dealing in the
24 interest of consumers, the ~~[board]~~ division shall promulgate
25 ~~[regulations]~~ rules fixing and establishing for any food or

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1 class of food a reasonable definition and standard of identity
2 or reasonable standard of quality or fill of container or any
3 combination of such requirements. In prescribing a definition
4 and standard of identity for any food or class of food in which
5 optional ingredients are permitted, the ~~[board]~~ division shall,
6 for the purpose of promoting honesty and fair dealing in the
7 interest of consumers, designate the optional ingredients
8 ~~[which]~~ that shall be named on the label. ~~[The definitions and~~
9 ~~standards so promulgated shall conform so far as practicable to~~
10 ~~the definitions and standards promulgated under the authority~~
11 ~~of the federal act.]~~

12 B. In promulgating ~~[regulations]~~ rules pursuant to
13 this section, the ~~[board]~~ division shall follow the procedures
14 set forth in Section 74-1-9 NMSA 1978. "

15 Section 18. Section 25-2-10 NMSA 1978 (being Laws 1951,
16 Chapter 169, Section 10, as amended) is amended to read:

17 "25-2-10. WHEN FOOD DEEMED ADULTERATED. --A food shall be
18 deemed to be adulterated:

19 A.

20 (1) if it bears or contains any poisonous or
21 deleterious substance ~~[which]~~ that may render it injurious to
22 health, but, in case the substance is not an added substance,
23 ~~[such]~~ the food shall not be considered adulterated under this
24 ~~[clause]~~ paragraph if the quantity of ~~[such]~~ the substance in
25 ~~[such good]~~ the food does not ordinarily render it injurious to

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1 health; [or]

2 (2) if it bears or contains any added
3 poisonous or added deleterious substance [~~which~~] that is unsafe
4 within the meaning of Section [~~13-(54-1-13); or~~] 25-2-13 NMSA
5 1978;

6 (3) if it consists in whole or in part of a
7 diseased, contaminated, filthy, impure or infested ingredient,
8 putrid or decomposed substance or if it is otherwise unfit for
9 food; [or]

10 (4) if it has been produced, prepared, packed
11 or held under insanitary conditions whereby it may have been
12 contaminated with filth or whereby it may have been rendered
13 diseased, unwholesome or injurious to health; [or]

14 (5) if it is the product of a diseased animal
15 or an animal [~~which~~] that has died otherwise than by slaughter
16 or that has been fed upon the [~~uncooked~~] offal from a
17 slaughterhouse; or

18 (6) if its container is composed in whole or
19 in part of any poisonous or deleterious substance [~~which~~] that
20 may render the contents injurious to health;

21 B.

22 (1) if any valuable constituent has been, in
23 whole or in part, omitted or abstracted therefrom; [or]

24 (2) if any substance has been substituted
25 wholly or in part therefor; [or]

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1 (3) if damage or inferiority has been
2 concealed in any manner; or

3 (4) if any substance has been added [~~thereto~~]
4 or mixed or packed [~~therewith~~] with the food so as to increase
5 its bulk or weight or reduce its quality or strength or make it
6 appear better or of greater value than it is;

7 C. if it is a confectionery and it bears or
8 contains any alcohol or non-nutritive article or substance
9 except harmless coloring, harmless flavoring, harmless resinous
10 glaze not in excess of four-tenths [~~of one per centum (4/10%)~~]
11 percent, harmless natural gum and pectin; provided that this
12 [~~paragraph~~] subsection shall not apply to any confectionery by
13 reason of its containing less than two and [~~one quarter per~~
14 ~~centum~~] one-fourth percent by weight of alcohol derived solely
15 from the use of flavoring extracts or to any chewing gum by
16 reason of its containing harmless non-nutritive masticatory
17 substances;

18 D. if it bears or contains a coal-tar color other
19 than one from a batch [~~which~~] that has been certified under
20 authority of the federal act; or

21 E. if it has been found by the department of
22 environment to include carcinogens, neurotoxins or other
23 deleterious compounds. "

24 Section 19. Section 25-2-11 NMSA 1978 (being Laws 1951,
25 Chapter 169, Section 11) is amended to read:

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1 "25-2-11. WHEN FOOD DEEMED MISBRANDED. -- A food shall be
2 deemed to be misbranded if:

3 [~~(a)~~—if] A. its labeling is false or misleading in
4 any particular;

5 [~~(b)~~—if] B. it is offered for sale under the name
6 of another food;

7 [~~(c)~~—if] C. it is an imitation of another food,
8 unless its label bears, in type of uniform size and prominence,
9 the word "imitation" and, immediately thereafter, the name of
10 the food imitated;

11 [~~(d)~~—if] D. its container is so made, formed or
12 filled as to be misleading;

13 [~~(e)~~—if] E. in package form, unless it bears a
14 label containing:

15 (1) the name and place of business of the
16 manufacturer, packer or distributor; or

17 (2) an accurate statement of the quantity of
18 the contents in terms of weight, measure or numerical count;
19 provided that under [~~clause (2) of~~] this paragraph reasonable
20 variations shall be permitted and exemptions as to small
21 packages shall be established by [~~regulations~~] rules prescribed
22 by the [~~board~~] division;

23 [~~(f)~~—if] F. any word, statement or other
24 information required by or under authority of [~~this~~] the New
25 Mexico Food Act to appear on the label or labeling is not

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1 prominently placed [~~thereon~~] on the label with such
2 conspicuousness, as compared with other words, statements,
3 designs or devices in the labeling, and in such terms as to
4 render it likely to be read and understood by the ordinary
5 [~~individual~~] person under customary conditions of purchase and
6 use;

7 [~~(g)—if~~] G. it purports to be or is represented as
8 a food for which a definition and standard of identity has been
9 prescribed by [~~regulations~~] rules as provided by Section [~~9~~]
10 25-2-9 NMSA 1978 unless:

11 (1) it conforms to such definition and
12 standard; and

13 (2) its label bears the name of the food
14 specified in the definition and standard and, insofar as may be
15 required by such [~~regulations~~] rules, the common names of
16 optional ingredients, other than spices, flavoring and
17 coloring, present in such food;

18 [~~(h)—if~~] H. it purports to be or is represented
19 as:

20 (1) a food for which a standard of quality has
21 been prescribed by [~~regulations~~] rules as provided by Section
22 [~~9~~] 25-2-9 NMSA 1978 and its quality falls below [~~such~~] that
23 standard unless its label bears in such manner and form as
24 [~~such regulations~~] the rules specify a statement that it falls
25 below [~~such~~] the standard; or

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1 (2) a food for which a standard ~~[or standards]~~
2 of fill of container ~~[have]~~ has been prescribed by ~~[regulation]~~
3 rule as provided by Section [9] 25-2-9 NMSA 1978 and it falls
4 below the standard of fill of container applicable ~~[thereto]~~ to
5 it, unless its label bears in such manner and form as ~~[such~~
6 ~~regulations]~~ the rules specify a statement that it falls below
7 ~~[such]~~ the standard;

8 ~~[(i)—if]~~ I. it is not subject to the provisions of
9 ~~[paragraph (g)]~~ Subsection G of this section, unless it bears
10 labeling clearly giving:

11 (1) the common or usual name of the food, if
12 any ~~[there be]~~; and

13 (2) in case it is fabricated from two or more
14 ingredients, the common or usual name of each ~~[such]~~
15 ingredient, except that spices, flavorings and colorings, other
16 than those sold as such, may be designated as spices,
17 flavorings and colorings without naming each; provided that to
18 the extent that compliance with the requirements of ~~[clause (2)~~
19 ~~of]~~ this paragraph is impractical or results in deception or
20 unfair competition, exemptions shall be established by
21 ~~[regulations]~~ rules promulgated by the ~~[board]~~ division; and
22 provided further that the requirements of ~~[Clause (2) of]~~ this
23 paragraph shall not apply to ~~[any]~~ a carbonated beverage, the
24 ingredients of which have been fully and correctly disclosed in
25 an affidavit filed with the ~~[board]~~ division;

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[bracketed material] = delete

1 ~~[(j)—if]~~ J. it purports to be or is represented
2 for special dietary uses, unless its label bears such
3 information concerning its vitamin, mineral and other dietary
4 properties as the ~~[board]~~ division determines to be, and by
5 ~~[regulations prescribed]~~ rule prescribes as, necessary in order
6 to fully inform purchasers as to its value for such uses;

7 ~~[(k)—if]~~ K. it bears or contains any artificial
8 flavoring, artificial coloring or chemical preservative, unless
9 it bears labeling stating that fact; provided that to the
10 extent that compliance with the requirements of this
11 ~~[paragraph]~~ subsection is impracticable, exemptions shall be
12 established by ~~[regulations]~~ rules promulgated by the ~~[board]~~
13 division; or

14 L. it does not bear labeling required by the
15 nutrition and food safety standards of the division because its
16 contents include carcinogens, neurotoxins or other deleterious
17 compounds. "

18 Section 20. Section 25-3-7 NMSA 1978 (being Laws 1969,
19 Chapter 89, Section 2, as amended) is amended to read:

20 "25-3-7. DEFINITIONS. --As used in the Meat Inspection
21 Act:

22 A. "board" means the New Mexico livestock board or,
23 where appropriate, its executive director;

24 B. "health board" means the ~~[health and]~~ department
25 of environment ~~[department of the state];~~

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1 C. "chief" means the chief veterinary meat
2 inspector;

3 D. "meat" means the edible flesh of poultry, birds
4 or animals as usually sold for human consumption and includes
5 livestock, poultry and livestock and poultry products;

6 E. "livestock product" or "poultry product" means
7 any product capable of use as human food [~~which~~] that is wholly
8 or partially made from meat and is not specifically exempted by
9 [~~regulation~~] rule of the board;

10 F. "prepared" means slaughtered, canned, salted,
11 stuffed, rendered, boned, cut up or otherwise manufactured or
12 processed;

13 G. "federal acts" means the Federal Meat Inspection
14 Act, 34 Stat. 1260, as amended by the Wholesome Meat Act, 81
15 Stat. 584 and the federal Poultry Products Inspection Act, 71
16 Stat. 441, as amended by the Wholesome Poultry Products Act, 82
17 Stat. 791;

18 H. "pesticide chemical", "food additive", "color
19 additive" and "raw agricultural commodity" [~~shall~~] have the
20 same meanings for the Meat Inspection Act as for the Federal
21 Food, Drug and Cosmetic Act, 52 Stat. 1040, as amended;

22 I. "adulterated" means the term applied to any meat
23 if:

24 (1) [~~if~~] it bears or contains any poisonous or
25 deleterious substance [~~which~~] that may render it injurious to

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[bracketed material] = delete

1 health ~~[provided that any substance not added to meat shall not~~
2 ~~be considered adulterating if the quantity of the substance is~~
3 ~~insufficient to ordinarily render it injurious to health]~~ as
4 prescribed by the board or state law;

5 (2) [if] it bears or contains, by reason of
6 administration of any substance to the meat, any added
7 poisonous or added deleterious substance ~~[other than a color~~
8 ~~additive, a food additive or a pesticide chemical in or on a~~
9 ~~raw agricultural commodity, any of which may]~~ that in the
10 board's judgment ~~[make such article]~~ or by state law makes the
11 meat unfit for human food;

12 (3) [if] it is in whole or in part a raw
13 agricultural commodity and bears or contains a pesticide
14 chemical ~~[which]~~ that is unsafe ~~[within the meaning of Section~~
15 ~~408 of the Federal Food, Drug and Cosmetic Act]~~ as determined
16 by the New Mexico department of agriculture or state law;

17 (4) [if] it bears or contains any food
18 additive ~~[which]~~ that is unsafe ~~[within the meaning of Section~~
19 ~~409 of the Federal Food, Drug and Cosmetic Act]~~ as determined
20 by state law;

21 (5) [if] it bears or contains any color
22 additive ~~[which]~~ that is unsafe ~~[within the meaning of Section~~
23 ~~706 of the Federal Food, Drug and Cosmetic Act]~~ as determined
24 by state law; provided that ~~[an article which]~~ meat that is not
25 otherwise deemed adulterated under ~~[Paragraphs]~~ this paragraph

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1 or Paragraph (3) or (4) [~~or (5)~~] of this [section] subsection
2 shall be deemed adulterated if use of the pesticide chemical,
3 food additive or color additive in or on [~~such article~~] meat is
4 prohibited by [~~regulation of the board~~] the nutrition and food
5 safety standards of the department of environment;

6 (6) [~~if~~] it consists in whole or in part of
7 any filthy, putrid or decomposed substance or is for any other
8 reason unsound, unhealthful, unwholesome or otherwise unfit for
9 human food;

10 (7) [~~if~~] it has been prepared, packed or held
11 under [~~unsanitary~~] insanitary conditions whereby it may have
12 become contaminated with filth or whereby it may have been
13 rendered injurious to health;

14 (8) [~~if~~] it is in whole or in part the product
15 of an animal, including poultry, [~~which has~~] that died
16 otherwise than by slaughter;

17 (9) [~~if~~] its container is composed in whole or
18 in part of any poisonous or deleterious substance [~~which~~] that
19 may render the contents injurious to health;

20 (10) [~~if~~] it has been intentionally subjected
21 to radiation unless the use of the radiation was in conformity
22 with a regulation or exemption in effect pursuant to Section
23 409 of the Federal Food, Drug and Cosmetic Act;

24 (11) [~~if~~] any valuable constituent has been,
25 in whole or in part, omitted or abstracted [~~therefrom~~] or if

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1 any substance has been substituted wholly or in part [~~therefor~~]
2 or if damage or inferiority has been concealed in any manner or
3 if any substance has been added [~~thereto~~] or mixed or packed
4 [~~therewith~~] with the meat so as to increase its bulk or weight
5 or reduce its quality or strength or make it appear better or
6 of greater value than it is; or

7 (12) [~~if~~] it is margarine containing animal
8 fat and any of the raw material used [~~therein~~] consisted in
9 whole or in part of any filthy, putrid or decomposed substance;

10 J. "misbranded" means the term applied to meat:

11 (1) if its labeling is false or misleading in
12 any particular;

13 (2) if it is offered for sale under the name
14 of another food;

15 (3) if it is an imitation of another food,
16 unless its label bears in type of uniform size and prominence
17 the word "imitation" and immediately thereafter the name of the
18 food being imitated;

19 (4) if its container is so made, formed or
20 filled as to be misleading;

21 (5) unless it bears a label showing:

22 (a) the name and place of business of
23 the manufacturer, packer or distributor; and

24 (b) an accurate statement of the
25 quantity of the product in terms of weight, measure or

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[bracketed material] = delete

1 numerical count; provided that the board may make ~~[regulations]~~
2 rules exempting small meat packages, meat not in containers and
3 other reasonable variations;

4 (6) if any word, statement or other
5 information required by or under the Meat Inspection Act or the
6 nutrition and food safety standards of the department of
7 environment to appear on the label or other labeling is not
8 prominently placed ~~[thereon]~~ on the label with such
9 conspicuousness, as compared with other words, statements,
10 designs or devices in the labeling, and is not stated in such
11 terms as to render it likely to be read and understood by the
12 ordinary ~~[individual]~~ person under customary conditions of
13 purchase and use;

14 (7) if it purports to be or is represented as
15 a food for which a definition and standard of ~~[identify]~~
16 identity or composition has been prescribed by the
17 ~~[regulations]~~ rules of the board under Section ~~[5 of the Meat~~
18 ~~Inspection Act]~~ 25-3-13 NMSA 1978 or the nutrition and food
19 safety standards of the department of environment, unless:

20 (a) it conforms to ~~[such]~~ the definition
21 and standard; and

22 (b) its label bears the name of the food
23 specified in the definition and standard and, insofar as may be
24 required by ~~[such regulations]~~ the rules, the common names of
25 optional ingredients, other than spices, flavoring and

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1 coloring, present in ~~[such]~~ the food;

2 (8) if it purports to be or is represented as
3 a food for which a standard ~~[or standards]~~ of fill of container
4 ~~[have]~~ has been prescribed by ~~[regulations]~~ rules of the board
5 under Section ~~[5 of the Meat Inspection Act]~~ 25-3-13 NMSA 1978
6 and it falls below the standard of fill of container applicable
7 ~~[thereto]~~, unless its label bears in such manner and form as
8 ~~[such regulations]~~ the rules specify a statement that it falls
9 below ~~[such]~~ standard;

10 (9) if it is not subject to the provisions of
11 Paragraph (7) of this subsection unless its label bears:

12 (a) the common or usual name of the
13 food, if any ~~[there be]~~; and

14 (b) in case it is fabricated from two or
15 more ingredients, the common or usual name of each ~~[such]~~
16 ingredient, except that spices, flavorings and colorings ~~may~~,
17 when authorized by the board and not in conflict with the
18 nutrition and food safety standards of the department of
19 environment, be designated as spices, flavorings and colorings
20 without naming each; provided that to the extent that
21 compliance with the requirements of this paragraph ~~[(9)-(b)]~~ is
22 impracticable or results in deception or unfair competition,
23 exemptions ~~[shall]~~ may be established by ~~[regulations]~~ rules
24 promulgated by the board;

25 (10) if it purports to be or is represented

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1 for special dietary uses, unless its label bears such
2 information concerning its vitamin, mineral and other dietary
3 properties as the board, after consultation with the [~~secretary~~
4 ~~of agriculture of the United States~~] nutrition and food safety
5 division of the department of environment, determines to be,
6 and by [~~regulations~~] rules prescribes as, necessary in order to
7 fully inform purchasers as to its value for such uses;

8 (11) if it bears or contains any artificial
9 flavoring, artificial coloring or chemical preservative, unless
10 it bears labeling stating that fact; provided that to the
11 extent that compliance with the requirements of this paragraph
12 [~~(11)~~] is impracticable, exemptions [~~shall~~] may be established
13 by [~~regulations~~] rules promulgated by the board in conformance
14 with the nutrition and food safety standards of the department
15 of environment; or

16 (12) if it fails to bear directly thereon and
17 on its containers, as the board may by [~~regulations~~] rules
18 prescribe, the official inspection legend and establishment
19 number of the establishment where the product was prepared and,
20 unrestricted by any of the foregoing, such other information as
21 the board may require in [~~such regulations~~] the rules to
22 [~~assure~~] ensure that it will not have false or misleading
23 labeling and that the public will be informed of the manner of
24 handling required to maintain the article in a wholesome
25 condition;

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[bracketed material] = delete

1 K. "livestock" means any cattle, sheep, swine,
2 goats, horses, asses, mules, [ø] other equines, rabbits,
3 bison, camelids, farmed cervidae, antelope and other exotic or
4 game animal, whether live or dead;

5 L. "poultry" means any wild or domesticated bird,
6 whether live or dead, including ratites; and

7 M. "official establishment" means any establishment
8 licensed by the board at which inspection of the slaughter of
9 livestock or poultry or the preparation of meat food products
10 is maintained under the provision of the Meat Inspection Act. "

11 Section 21. Section 25-7A-10 NMSA 1978 (being Laws 1993,
12 Chapter 188, Section 10) is amended to read:

13 "25-7A-10. DAIRY PRODUCTS--ADULTERATED. --A dairy product
14 shall be deemed to be adulterated if:

15 A. it bears or contains any poisonous or
16 deleterious substance that may render it injurious to health
17 [~~but, in case the substance is not an added substance, the~~
18 ~~dairy product shall not be considered adulterated under this~~
19 ~~subsection if the quantity of the substance in the dairy~~
20 ~~product does not ordinarily render it injurious to health] as
21 prescribed by the board or the nutrition and food safety
22 standards of the department of environment;~~

23 B. it bears or contains any added poisonous or
24 added deleterious substance that is unsafe within the meaning
25 of Section [~~13 of the New Mexico Dairy Product Act~~] 25-7A-13

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1 NMSA 1978 or the nutrition and food safety standards of the
2 department of environment;

3 C. it consists in whole or in part of a diseased,
4 contaminated, filthy, impure or infested ingredient, putrid or
5 decomposed substance or is otherwise unfit for food;

6 D. it has been produced, prepared, packed or held
7 under [~~unsanitary~~] insanitary conditions whereby it may have
8 been contaminated with filth or whereby it may have been
9 rendered diseased, unwholesome or injurious to health;

10 E. it is the product of a diseased animal or an
11 animal that has died otherwise than by slaughter or that has
12 been fed upon the [~~uncooked~~] offal from a slaughterhouse;

13 F. its container is composed in whole or in part of
14 any poisonous or deleterious substance that may render the
15 contents injurious to health;

16 G. any valuable constituent has been, in whole or
17 in part, omitted or abstracted therefrom;

18 H. any substance has been substituted wholly or in
19 part therefor;

20 I. damage or inferiority has been concealed in any
21 manner;

22 J. any substance has been added or mixed or packed
23 therewith so as to increase its bulk or weight or reduce its
24 quality or strength or make it appear better or of greater
25 value than it is; [~~or~~]

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[bracketed material] = delete

1 K. it bears or contains a coal-tar color [~~other~~
2 ~~than one from a batch that has been certified under authority~~
3 ~~of the federal act~~]; or

4 L. it has been found by the department of
5 environment to include carcinogens, neurotoxins or other
6 deleterious compounds."

7 Section 22. Section 25-7A-11 NMSA 1978 (being Laws 1993,
8 Chapter 188, Section 11) is amended to read:

9 "25-7A-11. MISBRANDED DAIRY PRODUCT. --A dairy product
10 within a dairy establishment shall be deemed to be misbranded
11 if:

12 A. its labeling is false or misleading in any
13 particular manner;

14 B. it is offered for sale under the name of another
15 dairy product;

16 C. it is an imitation of another dairy product,
17 unless its label bears, in type of uniform size and prominence,
18 the word "imitation" and, immediately thereafter, the name of
19 the dairy product imitated;

20 D. its container is so made, formed or filled as to
21 be misleading;

22 E. it is in package form, unless it bears a label
23 containing:

24 (1) the name and place of business of the
25 manufacturer, packer or distributor; or

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1 (2) an accurate statement of the quantity of
2 the contents in terms of weight, measure or numerical count;
3 provided that under this paragraph reasonable variations shall
4 be permitted and exemptions as to small packages shall be
5 established by [~~regulations~~] rules prescribed by the board;

6 F. any word, statement or other information
7 required by or under authority of the New Mexico Dairy Product
8 Act to appear on the label or labeling is not prominently
9 placed with such conspicuousness, as compared with other words,
10 statements, designs or devices in the labeling, and in such
11 terms as to render it likely to be read and understood by the
12 ordinary [~~individual~~] person under customary conditions of
13 purchase and use;

14 G. it purports to be or is represented as a dairy
15 product for which a definition and standard of identity has
16 been prescribed by [~~regulations~~] rules as provided by Section
17 [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA 1978,
18 unless:

19 (1) it conforms to such definition and
20 standard; and

21 (2) its label bears the name of the dairy
22 product specified in the definition and standard and, insofar
23 as may be required by such [~~regulations~~] rules, the common
24 names of optional ingredients, other than spices, flavoring and
25 coloring, present in such dairy product;

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[bracketed material] = delete

1 H. it purports to be or is represented as:

2 (1) a dairy product for which a standard of
3 quality has been prescribed by [~~regulations~~] rules as provided
4 by Section [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA
5 1978 or the nutrition and food safety standards of the
6 department of environment and its quality falls below that
7 standard, unless its label bears in such manner and form as the
8 [~~regulations~~] rules or standards specify a statement that it
9 falls below the standard; or

10 (2) a food for which a standard of fill of
11 container has been prescribed by [~~regulation~~] rule as provided
12 by Section [~~9 of the New Mexico Dairy Product Act~~] 25-7A-9 NMSA
13 1978 and it falls below the standard of fill of container
14 applicable to it, unless its label bears in such manner and
15 form as the [~~regulations~~] rules specify a statement that it
16 falls below the standard;

17 I. it is not subject to the provisions of
18 Subsection G of this section, unless it bears labeling clearly
19 giving:

20 (1) the common or usual name of the dairy
21 product, if any; and

22 (2) in case it is fabricated from two or more
23 ingredients, the common or usual name of each ingredient,
24 except that spices, flavorings and colorings, other than those
25 sold as such, may be designated as spices, flavorings and

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1 colorings without naming each unless otherwise provided by the
2 nutrition and food safety standards of the department of
3 environment; provided that to the extent that compliance with
4 the requirements of this paragraph is impracticable or results
5 in deception or unfair competition, exemptions shall be
6 established by [~~regulations~~] rules promulgated by the board, in
7 accordance with those standards;

8 J. it purports to be or is represented for special
9 dietary uses, unless its label bears such information
10 concerning its vitamin, mineral and other dietary properties as
11 the board determines to be, and by [~~regulations~~] rules
12 prescribes as, necessary in order to fully inform purchasers as
13 to its value for such uses; and

14 K. it bears or contains any artificial flavoring,
15 artificial coloring or chemical preservative allowable pursuant
16 to the nutrition and food safety standards of the department of
17 environment, unless it bears labeling stating that fact;
18 provided that to the extent that compliance with the
19 requirements of this subsection is impracticable, exemptions
20 shall be established by [~~regulations~~] rules promulgated by the
21 board. "

22 Section 23. A new section of the Nursing Practice Act is
23 enacted to read:

24 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. -- The board
25 shall establish by rule requirements for mandatory nutrition

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1 education for certified nurse practitioners and clinical nurse
2 specialists. "

3 Section 24. A new section of the Dental Health Care Act
4 is enacted to read:

5 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board
6 shall establish by rule requirements for mandatory nutrition
7 education for dentists. "

8 Section 25. A new section of the Medical Practice Act is
9 enacted to read:

10 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board
11 shall establish by rule requirements for mandatory nutrition
12 education for physicians and physician assistants. "

13 Section 26. A new section of the Professional
14 Psychologist Act is enacted to read:

15 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board
16 shall establish by rule requirements for mandatory nutrition
17 education for psychologists. "

18 Section 27. A new section of the Counseling and Therapy
19 Practice Act is enacted to read:

20 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board
21 shall establish by rule requirements for mandatory nutrition
22 education for counselors and therapists. "

23 Section 28. A new section of Chapter 61, Article 10 NMSA
24 1978 is enacted to read:

25 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY. --The board

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1 shall establish by rule requirements for mandatory nutrition
2 education for osteopathic physicians. "

3 Section 29. Section 74-1-8 NMSA 1978 (being Laws 1971,
4 Chapter 277, Section 11, as amended by Laws 2000, Chapter 86,
5 Section 2 and also by Laws 2000, Chapter 96, Section 2) is
6 amended to read:

7 "74-1-8. BOARD--DUTIES. --

8 A. The board is responsible for environmental
9 management and consumer protection. In that respect, the board
10 shall promulgate rules and standards in the following areas:

11 [~~(1)~~—~~food protection;~~

12 ~~(2)~~] (1) water supply, including a capacity
13 development program to assist water systems in acquiring and
14 maintaining technical, managerial and financial capacity in
15 accordance with Section 1420 of the federal Safe Drinking Water
16 Act and rules authorizing imposition of administrative
17 penalties for enforcement;

18 [~~(3)~~] (2) liquid waste, including exclusive
19 authority to establish on-site liquid waste system fees that
20 are no more than the average charged by the contiguous states
21 to New Mexico for similar permits and services and to implement
22 and administer an inspection and permitting program for on-site
23 liquid waste systems;

24 [~~(4)~~] (3) air quality management as provided
25 in the Air Quality Control Act;

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1 [~~(5)~~] (4) radiation control and establishment
2 of license, registration and other related fees not to exceed
3 fees charged by the United States nuclear regulatory commission
4 for similar licenses as provided in the Radiation Protection
5 Act;

6 [~~(6)~~] (5) noise control;

7 [~~(7)~~] (6) nuisance abatement;

8 [~~(8)~~] (7) vector control;

9 [~~(9)~~] (8) occupational health and safety as
10 provided in the Occupational Health and Safety Act;

11 [~~(10)~~] (9) sanitation of public swimming pools
12 and public baths;

13 [~~(11)~~] (10) plumbing, drainage, ventilation
14 and sanitation of public buildings in the interest of public
15 health;

16 [~~(12)~~] (11) medical radiation, health and
17 safety certification and standards for radiologic technologists
18 as provided in the Medical Radiation Health and Safety Act;

19 [~~(13)~~] (12) hazardous wastes and underground
20 storage tanks as provided in the Hazardous Waste Act; and

21 [~~(14)~~] (13) solid waste as provided in the
22 Solid Waste Act.

23 B. Nothing in Subsection A of this section imposes
24 requirements for the approval of subdivision plats in addition
25 to those required elsewhere by law. Nothing in Subsection A of

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1 this section preempts the authority of any political
2 subdivision to approve subdivision plats.

3 C. Administrative penalties collected pursuant to
4 Paragraph [~~(2)~~] (1) of Subsection A of this section shall be
5 deposited in the water conservation fund.

6 D. Radiation license, registration and other
7 related fees shall be deposited in the radiation protection
8 fund.

9 [~~D-~~] E. On-site liquid waste system fees shall be
10 deposited in the liquid waste fund. "

11 Section 30. TEMPORARY PROVISION--UNIVERSITY OF NEW MEXICO
12 SCHOOL OF MEDICINE FOOD ADDITIVES AND PESTICIDES STUDIES. --The
13 obstetrics, neonatology and pediatrics departments of the
14 university of New Mexico school of medicine shall conduct a
15 study on the precise medical effects of food additives on
16 pregnant women, fetuses and children under the age of five and
17 a study on the effects of living near or working in fields of
18 farms spraying pesticides, herbicides and insecticides.

19 Section 31. APPROPRIATIONS. --

20 A. Three million four hundred thousand dollars
21 (\$3,400,000) is appropriated from the general fund to the
22 department of environment for expenditure in fiscal year 2005
23 for staff, equipment and furnishings for the deputy secretary
24 for nutrition and the nutrition and food safety division of the
25 department of environment and for the per diem and mileage

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1 expenses of the nutrition council. Any unexpended or
2 unencumbered balance remaining at the end of fiscal year 2005
3 shall revert to the general fund.

4 B. One million five hundred thousand dollars
5 (\$1,500,000) is appropriated from the general fund to the
6 nutrition fund for expenditure in fiscal year 2005 and
7 subsequent fiscal years to carry out the provisions of the
8 Nutrition Act. Any unexpended or unencumbered balance
9 remaining at the end of a fiscal year shall not revert to the
10 general fund. Any unexpended or unencumbered balance remaining
11 at the end of fiscal year 2005 shall revert to the general
12 fund.

13 C. Four hundred thousand dollars (\$400,000) is
14 appropriated from the general fund to the public education
15 department for expenditure in fiscal years 2005 and 2006 to
16 employ nutritionists to assist school districts in the public
17 schools. Any unexpended or unencumbered balance remaining at
18 the end of fiscal year 2006 shall revert to the general fund.

19 D. Three hundred thousand dollars (\$300,000) is
20 appropriated from the general fund to the board of regents of
21 the university of New Mexico for expenditure in fiscal years
22 2005 through 2007 to perform the studies provided for in
23 Section 30 of this act. Any unexpended or unencumbered balance
24 remaining at the end of fiscal year 2007 shall revert to the
25 general fund.